

SCHOOL FACILITIES BOARD
January 6, 2005
Phoenix, Arizona

The School Facilities Board held a board meeting at the Roosevelt Elementary School District Office. The meeting began at approximately 10:00 A.M.

<u>Members Present</u>	<u>Guests Present</u>
Conley, Patrice	Grace Wright, Roosevelt ESD
Keenan, Brooks	Tim Foist, Yuma UHSD
McGee, Kate, Chair	Judith Bobbitt, Somerton ESD
Triphahn, Carl	Cathy Rex
Vaughan, G. Keith	Scott Thompson, Dysart USD
Van Sittert, Logan	Pete Turner, Liberty ESD
Wright, John, Vice-Chair	Jim Migliorino, Liberty ESD
Vicki Salazar, Superintendent's Representative (non-voting)	Nancy Beck, Attorney General's Office
<u>Members Absent</u>	
Granillo, Peter	
<u>Staff Present</u>	
Tim Brand, Facilities Deputy Director	
John Arnold, Deputy Director of Finance	
Charlotte Hosseini, Special Projects	
Terrie Zenoff, Assistant Attorney General	
Deborah Dominguez, Executive Assistant	
Kristen Landry, Public Information Officer	
Amber Peterson, School Finance Specialist	

Welcome

Grace Wright, Superintendent, welcomed the School Facilities Board.

- I. Call to Order
Board Chair, Logan Van Sittert, called the meeting to order at approximately 10:05 A.M.
- II. Roll Call
There were eight Board Members present at this meeting including Vicki Salazar of ADE, a non-voting member.
- III. Approval of Minutes of December 2, 2004 Meeting
John Wright moved that the Board approve the Minutes for December 2, 2004. Keith Vaughan seconded. Motion passed on a 6-0-1 voice vote with Carl Triphahn abstaining from the vote.

The following items are listed in the order in which they appear on the agenda, not necessarily in the order in which they were discussed. Several items were reviewed out of order as they related to other items on the agenda.

IV. Director's Report

a. Changes in Board Membership

Logan Van Sittert announced that Governor Napolitano has appointed Kate McGee as Chair of the School Facilities Board and passed the gavel to her. Ms. McGee presented Mr. Van Sittert with a Certificate of Appreciation from the Governor's Office.

b. Deficiency Correction and Audit Update

Charlotte Hosseini gave a report on the audit. She stated we anticipate the audit of Chuska/Sahara will be finalized next month. The audit of FCI Contractors and Turner Construction have concluded and \$35,000 and \$60,000 was returned to the SFB respectively. She added that five Project Management firms including: Kitchell, Vanir, Abacus, Pinnacle One, and GVE have asked for additional funds for services. An affirmative claim to Kitchell was filed and will be sent to the Office of Administrative Hearings, which is the next resolution process prior to Superior Court. In addition, as a result of a report by the Auditor General, a review of Qwest will take place. There will be one final discussion prior to this review.

Pat Conley asked if the majority of the overcharges were found in the [CM@Risk](#) projects. Ms. Hosseini stated that yes, most of the overcharges have been [CM@Risk](#) contracts and added that there is not the same type of recourse with a fixed-price contract. Ms. Conley asked if the [CM@Risk](#) contracts were developed by the SFB. Ms. Hosseini stated that it was a combination of formats that Kitchell, Heery, and SFB staff drafted.

Tim Brand updated the Board on the status of the deficiencies corrections projects.

c. Full Day K Applications

Kate McGee recused herself from the Washington ESD vote as she is a member of that district's board.

John Wright moved that the Board approve funding in the amount of \$44,764 for the Washington Elementary School District for the Full Day Kindergarten Program. Brooks Keenan seconded. Motion passed on a 6-0-1 voice vote with Kate McGee recusing herself from the vote.

John Wright moved that the Board approve the following:

1. Funding in the amount of \$1,238 for the Amphitheater Unified District for the Full Day Kindergarten Program.
2. Funding in the amount of \$6,395 for the Ash Fork Unified District for the Full Day Kindergarten Program.

3. Funding in the amount of \$101,023 for the Crane Elementary District for the Full Day Kindergarten Program.
4. Funding in the amount of \$33,137 for the Dysart Unified District for the Full Day Kindergarten Program.
5. Funding in the amount of \$27,905 for the Ft. Thomas Unified District for the Full Day Kindergarten Program.
6. Funding in the amount of \$23,835 for the Laveen Elementary District for the Full Day Kindergarten Program.
7. Funding in the amount of \$5,232 for the McNary Elementary District for the Full Day Kindergarten Program.
8. Funding in the amount of \$90,400 for the Murphy Elementary District for the Full Day Kindergarten Program.
9. Funding in the amount of \$181,673 for the Phoenix Elementary District for the Full Day Kindergarten Program.
10. Funding in the amount of \$49,415 for the Somerton Elementary District for the Full Day Kindergarten Program.
11. Funding in the amount of \$11,627 for the Tuba City Unified District for the Full Day Kindergarten Program.
12. Funding in the amount of \$73,832 for the Washington Elementary District for the Full Day Kindergarten Program.
13. Funding in the amount of \$44,764 for the Wilson Elementary District for the Full Day Kindergarten Program.

Brooks Keenan seconded.

Pat Conley asked if additional space funded through the Full Day Kindergarten program is added into the districts' square footage reports. Director Bell stated that, yes, it is reported space. She then asked if there were any restrictions to the use of this money. Director Bell stated that the funding can be used in any way as long as it is related to the Full Day Kindergarten program.

John Wright clarified that the applications are based on the statutory requirements and not the SFB guidelines

Motion passed on a 7-0 voice vote.

V. New School Construction

a. Consideration of 2005 Capital Plan New Construction Requests

Keith Vaughan moved that the board approve the following:

1. That the Board approve the staff recommendation to approve a 9-12 high school for 1,200 students to open in FY 08 with a total project cost of \$20,354,064 (project number 070501000-9999-002N) for the Buckeye Union High School District.
2. That the Board approve the staff recommendation to deny funding for additional high school space for the Colorado River Union High School District.
3. That the Board approve the staff recommendation to approve two K-8 schools for 1,100 students each, to open one each in FY 07 and FY 08, with a project cost for each project of \$10,664,069 (project numbers 070289000-9999-011N and 070289000-9999-012N) for the Dysart Unified School District.
4. That the Board approve the staff recommendation to approve a 9-12 high school for 1,800 students to open in FY 07 with a total project cost of \$28,480,500 (project number 070289000-9999-014N) for the Dysart Unified School District.
5. That the Board approve the staff recommendation to approve a K-8 school for 800 students to open in FY 08 with a total project cost of \$7,755,686 (project number 070425000-9999-003N) for the Liberty Elementary School District.
6. That the Board approve the staff recommendation to approve a K-8 school for 972 students to open in FY 08 with a total project cost of \$9,423,180 (project number 070465000-9999-006N) for the Littleton Elementary School District.
7. That the Board approve the staff recommendation to deny funding for additional K-8 space for the Palo Verde Elementary School District.
8. That the Board approve the staff recommendation to deny funding for additional K-8 space for the Roosevelt Elementary School District.
9. That the Board approve the staff recommendation to deny funding for additional K-8 space for the Union Elementary School District.
10. That the Board approve the staff recommendation to *revise* the already-approved project 140570000-9999-002N) for Yuma Union High School District from a 900-student school to a 1,800-student school to open in FY 07. The additional square feet would have a funding amount of \$14,240,250 (the original funding amount for this project was \$14,044,500, so the new total project cost would be \$28,284,750).

Pat Conley asked why the funding window began in FY06 and not the current FY05. John Arnold explained that the three-year-box is in reference to the three-year-window described by statute that is a district needs space within three years, the SFB must approve that space. The Attorney General has defined that window as starting at the beginning of the next fiscal year.

Pat Conley added that design of a school can begin two or three years before construction which leads to problems with budgets because of fluctuations in the construction market. She suggested shortening that gap in time or keeping districts aware of the time frame. John Arnold explained that districts are allowed to build facilities as soon as they want provided their ADM allows it.

Director Bell added that the 5% dollars awarded are to be used only on architecture and design and not consultant fees.

Tim Foist of Yuma Union High School District spoke on behalf of his district.

John Wright seconded. Motion passed on a 7-0 voice vote.

b. Consideration of New Construction Projects Review, Bids, Bid Packages and Change Orders

John Wright moved that the board approve the following:

1. Littleton Elementary District's request to go to bid on a School Facilities Board project in the amount of \$9,292,951 for a K-8 elementary school, project number 070465000-9999-005N.
2. Somerton Elementary District's request to go to bid on a School Facilities Board project in the amount of \$2,293,434 for a K-5 elementary school, project number 140411000-9999-002N.

Judith Bobbitt of the Somerton School District spoke on behalf of her district.

Pat Conley seconded. Motion passed on a 7-0 voice vote.

c. Other New Construction Issues
Method to Determine Inflation Increases

Director Bell explained that staff received an Attorney General's opinion in regards to the policy governing the adjustment of new construction awards for inflation. Staff proposed steps in determining if "good cause exists" to supplement the original policy.

Pat Conley asked to clarify that this is only for districts that sign their terms and conditions and are locked into their cost per square foot, and that it can only be adjusted to the point of the JLBC index. Mr. Arnold stated that it is only for districts that sign their terms & conditions. He did not believe that the statute limits the SFB to what JLBC has set as the cost per square foot. Ms. Conley stated that aside from site and geographic factors, we should not be able to exceed the amount as set by JLBC to which Director Bell agreed.

Keith Vaughan stated that districts can always come back if they have unusual circumstances. He added that the job of the SFB was to award monies for new schools and keep a level playing field and he is concerned

that this change does not do that. He agreed that this increase should be for reasons out of a district's control such as land and ADM issues.

Director Bell stated that the SFB will assist any district with problems they may have, but he is concerned that districts view this issue as an entitlement.

Pat Conley agreed with the tightening of the policy, but added that she is concerned with the abuses of CM@Risk. She added that a solution to Item #1 of the steps, might be to isolate non-minimum upgrades as add alternates.

Director Bell stated that this method makes the process fair. He added that districts have been aware of the inflation increase and received money when other districts have not.

John Wright stated that there are three issues he feels are being jumbled. There is an issue of responding to the Attorney General's conclusion that the SFB may modify the base cost based on a finding of good cause. He added that communication among the districts is not a part of this. And, if hard bids reflect a truer reflection of the market, then there might difficulties with CM@Risk.

Brooks Keenan disagreed that there is a conflict with CM@Risk. He stated that new schools are funded based on a formula and if you can make CM@Risk work within that formula, then there is no problem. But, if you are justifying a cost higher than the formula, then it is a good decision to hard-bid.

Cathy Rex, a consultant, addressed the board and stated that this proposal is an equity issue in that districts should have the same dollars to build regardless of when approval was granted.

Scott Thompson, of Dysart Unified, stated that CM@Risk has been successful for his district. He said that this proposal penalizes the districts for delays and that schools built at the same time should receive the same amount funds.

Pete Turner of the Liberty Elementary School District stated that his district is requesting an inflation increase because of when their Terms & Conditions were signed and because of circumstances out of the district's control that lead to a delay.

John Wright questioned whether the Attorney General's opinion is based on good cause for a price increase or good cause for a delay. He suggested establishing the right policy on a good cause for a delay that lead to the increase in process.

Director Bell stated that he is willing to work with the districts to build a facility. In order to do that, he is asking to look at the plans and determine whether or not the most prudent actions have been taken with respect to establishing the dollar amount to construct that school. He is trying to get away from the notion that simply because inflation has occurred, the board should automatically award additional money.

John Arnold stated that there are three objections brought forth to this policy:

- 1) It adds a level of complexity. Staff has walked through these steps with several districts and has been able to reach resolution.
- 2) Whether this addresses good cause for delay as opposed to good cause for additional dollars. Staff is trying to address both of those and believes more than one year for reasons beyond the control of the school district is good cause for delay.
- 3) Equity: When the court looked at the constitutional requirement, they defined equity as building to a minimum standard, which this does.

Pat Conley said that she supports this method, but is concerned with the time the terms & conditions were signed and the problem of districts that have already signed their terms & conditions and how their delays are addressed.

Keith Vaughan said he was unsure the board has a clear definition and suggested this be postponed to allow staff time to take the board's comments into consideration.

Logan Van Sittert stated that he did not believe adding more to the rule is necessary.

Keith Vaughan moved that this item be postponed until February and ask staff to review it again. Carl Triphahn seconded.

John Wright said the conclusion as written in the Attorney General's opinion that the base cost is determined at the time the terms & conditions are executed is key to the discussion. Does the board need to find good cause for the delay or good cause for the increase costs?

Director Bell asked what exactly the board would want staff to evaluate should they decide to table this issue.

Kate McGee stated that she believes the board needs something in place and would prefer to go forward on this issue.

Keith Vaughan moved that the Board postpone this item and have staff evaluate this more closely with comments of the board. Carl Triphahn seconded. Motion passed on a 4-3 roll call vote with Brooks Keenan, Pat Conley, and Kate McGee voting against.

Brooks Keenan requested that this item be compiled into one document.

Pat Conley clarified that the board is currently following the outlined steps and while it is not policy it is a practice.

Liberty Elementary –request for increase in cost per square foot

Keith Vaughan moved that the Board table this issue as it relates to the previous item. Carl Triphahn seconded.

Pat Conley asked if the GMP was awarded without board approval, John Arnold stated that the board did approve this item in November. Ms. Conley then asked why this project could not be put out for bid. Mr. Arnold stated that the project is already in construction.

John Wright stated that he was reluctant to table this because of it's status in construction and should be considered on its own merit. Keith Vaughan retracted his motion and Carl Triphahn agreed.

John Wright asked staff to explain the practicality of value engineering if the project is already under construction. Tim Brand stated that the plans would be reviewed again to see if there is anything that is above the guidelines that could be removed.

Director Bell stated that this could set a direction that suggests we are going to award the inflation increase no matter what.

Keith Vaughan noted that the Board is in a difficult position because no matter which way they vote, it could be wrong by next month.

Brooks Keenan clarified that the board's decision will not effect what is built, only who pays for what.

Jim Migliorino of the Liberty District addressed the Board. He stated that the district executed a deductive change order of \$206,000 to balance the budget. The \$145,000 in local funds is the district's donation factor that is being put back into the project. The district has met with staff to discuss value engineering. He added that a similar project was built a year ago with the same contractor and fell within the budget, but the increases in this project are due to the market conditions.

Logan Van Sittert stated that the determination of the base cost is made when the terms & conditions are signed, and the district signed the terms & condition in February 2004. He asked staff to clarify. Director Bell stated that it had originally been approved several years ago and the original terms & conditions expired.

John Wright moved that the Board go into executive session for legal advise. Pat Conley seconded. Motion passed on a 7-0 voice vote. Executive session was from 11:45am-12:10pm.

Pat Conley moved that the Board deny Liberty Elementary District's request for a general inflation increase until the District complies with the staff's review. Carl Triphahn seconded. Motion passed on a 7-0 voice vote.

John Wright stated that because the Board just voted unanimously to take action to follow the policy as presented. He moved that the Board reconsider the decision of the method to determine inflation increases. His motion was not seconded.

VI. Consideration of Request for Land or Real Property Purchase, Lease, or Donation, including requests from:

a. Steps I and/or II

Brooks Keenan moved that the board approve the following:

1. That the Board approve Agua Fria Union High School District to accept a donation of 53 acres for a 9-12 high school site and move to Step III.
2. That the Board approve Casa Grande Elementary School District's request to accept a donation of 28 acres for a 6-8 elementary school facility and move to Step III.

John Wright seconded. Motion passed on a 7-0 voice vote.

b. Other Land Issues

John Wright moved that the Board approve additional funding in the amount of \$4,000 to proceed with environmental testing on a 12 acre parcel for the Chandler Unified School District (project number 070280000-9999-014L.)

Keith Vaughan seconded. Motion passed on a 7-0 voice vote.

VII. Request for Reduction in Square Footage

Keith Vaughan moved that the Board approve the staff recommendation to authorize staff to reflect the changes in the SFB building database for Palo Verde Elementary District. Brooks Keenan seconded. Motion passed on a 7-0 voice vote.

VIII. Assessment Deficiencies

a. Consideration of Ratification of Contracts for Deficiency Corrections Projects

John Wright moved that the Board ratify the contract awards for the School Facilities Board and the districts and vendors listed under agenda item VIII.a. Keith Vaughan seconded. Motion passed on a 7-0 voice vote.

b. Consideration of Ratification of Change Orders for Deficiency Corrections Projects

Keith Vaughan moved that the Board ratify the change orders for the districts and vendors listed under agenda item VIII.b. Brooks Keenan seconded. Motion passed on a 7-0 voice vote.

IX. Preventive Maintenance

a. Consideration of Preventive Maintenance Plans

John Wright moved that the Board approve the School Districts Preventive Maintenance Plans as presented in Item IXa. Keith Vaughan seconded. Motion passed on a 7-0 voice vote.

X. Consideration of 5 Year Building Renewal Plans

Brooks Keenan moved that the Board approve the other 15 districts' Five Year Building Renewal Plans as listed in item X. John Wright seconded. Motion passed on a 7-0 voice vote.

XI. Finance Report

John Arnold provided information on the Deficiency Corrections Fund, New Construction Fund, and Lease-to-Own history.

XII. Study Session

Nancy Beck of the Attorney General's Office provided information to the board on public meetings and conflict of interest.

XIII. Future Agenda Items

Pat Conley asked what the next study session would be. Director Bell stated that the Strategic Plan was next on the list, but suggested the Board wait until the Governor appoints new members to the board before working on that item.

Pat Conley requested a discussion on the Annual Report.

Keith Vaughan asked for an update on Tombstone and other current issues.

Kate McGee suggested that the board submit any policy-specific suggestions to Director Bell.

XV. Public Comment

There was no public comment.

Adjournment

There being no further business, Kate McGee, adjourned the meeting at approximately 1:20 P.M.

Approved by the School Facilities Board on _____, 2005

Kate McGee, Chair